In re:

Case No. 04-34128-GFK

Nicholas Morrison and Linda Morrison

NOTICE OF HEARING AND MOTION FOR RELIEF FROM AUTOMATIC STAY

Debtor(s).

Chapter 7 Case

TO: The Debtor above-named and other entities specified in Local Rule 9013-3.

### NOTICE OF HEARING AND MOTION

- 1. Twin City Co-ops Federal Credit Union, hereafter the Movant, a creditor in the above case, by the undersigned, moves the Court for the relief requested below and gives notice of hearing.
- 2. The court will hold a hearing on this motion at 10:30 a. m. on October 25, 2004, in Courtroom No. 228B, U. S. Bankruptcy Court, Federal Building, 316 North Robert Street, St. Paul, Minnesota.
- 3. Any response to this motion must be filed and delivered not later than 10:30 a. m. on October 20, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than October 15, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.
- 4. This court has jurisdiction over this motion pursuant to 28 U. S. C. §157 and §1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this chapter 7 case was filed or converted on 07/15/04. The case is now pending in this court.

5. This motion arises under 11 U. S. C. § 362 (d) and Bankruptcy Rule 4001. This motion is filed under Bankruptcy Rule 9014 and Local Rules, Rule 9006-1, and Rules 9013-1 to 9013-3. Movant requests relief from the automatic stay with respect to the following property (the collateral):

2000 Jeep Cherokee, VIN 1J4FF48S5YL154701; 2002 Kia Sportage, VIN KNDJA723225115996.

- 6. Debtors are in default under the retail installment contracts and security agreements respecting this collateral. Debtors have failed to make payment or propose future payment arrangements on the outstanding obligation since the filing of the petition. Debtors have not offered to redeem the collateral from Movant. Debtors have failed to surrender the 2000 Jeep Cherokee to Movant.
- 7. Debtors have no equity in the collateral and it is not necessary to a reorganization of Debtors' debt.
- 8. Movant does not have, and has not been offered, adequate protection in the collateral.
- 9. If oral testimony is necessary as to relevant facts, Julius Lee 2025 Larpenteur Avenue W., Falcon Heights, Minnesota, will testify for Movant.

WHEREFORE, Twin City Co-ops Federal Credit Union, by its undersigned attorney, moves the Court for an Order as follows:

(1) granting relief from the automatic stay with respect to the collateral, or in lieu thereof, an order granting the Movant such adequate protection of its interest in the collateral as provided under § 361 of the Bankruptcy Code; and

- (2) determining that Rule 4001(a)(3), Federal Rules of Bankruptcy Procedure, is not applicable so that Movant may immediately enforce and implement the Order granting relief from the automatic stay; and
  - (3) such other relief as the Court deems just and equitable.

Date: October 4, 2004

Gene T. Kelly, ID# 54690

Attorney for Movant

1515 One Financial Plaza

120 South 6th Street

Minneapolis, MN 55402

(612) 332-5890

In re:	Case No. 04-34128-GFK	
Nicholas Morrison and Linda Morrison,	AFFIDAVIT IN SUPPORT OF MOTION FOR RELIEF FROM AUTOMATIC STAY	
Debtor(s).	Chapter 7 Case	
STATE OF MINNESOTA )		
) SS COUNTY OF HENNEPIN )		

JULIUS LEE, being first duly swom on oath, states as follows:

- 1. He is an employee of Twin City Co-ops Federal Credit Union, hereafter the Movant, a creditor in the above-captioned case, and he is familiar with the matters herein of his own knowledge, except as to those matters stated on the basis of information and belief of Movant's business records, and as to those matters he believes them to be true.
- 2. Debtors financed the purchase of a Kia Sportage automobile as evidenced by a retail installment contract in the principal amount of dated April 7, 2002 (Contract I). A true and correct copy of Contract I is attached hereto and incorporated herein as Exhibit A.
- 3. Debtors financed the purchase of a Jeep Cherokee automobile as evidenced by a retail installment contract in the principal amount of dated April 8, 2002 (Contract II). A true and correct copy of Contract II is attached hereto and incorporated herein as Exhibit B.
- The Contracts are secured by the following property (the collateral): 2000 Jeep Cherokee, VIN 1J4FF48S5YL154701; 2002 Kia Sportage, VIN KNDJA723225115996. A copy

- 5. Debtors are in arrears to Movant for installment payments due under each Contract. No payment has been received on account since the filing of the bankruptcy petition herein.
- 6. The present pay-off balance on Contract I is \$13,920.63 and the present pay-off balance on Contract II is \$12,272.89.
- 7. Based on Debtors' schedules, the fair market value of the Kia Sportage is \$12,000.00 and the fair market value of the Jeep Cherokee is \$10,605.00.
  - 8. Debtors have surrendered possession of the Kia Sportage to the Movant.
- 9. Debtors continue to possess and use the Jeep Cherokee, subjecting it to wear and tear, and thereby cause the property to depreciate in value.

Subscribed and sworn to before me

day of October, 2004

Notary Public

CHARITY A. TALLMAN & NOTARY PUBLIC-MINNESOTA MAY CORNIN, EXPINED LAN. 31, 2005

STK# 1775

RETAIL	INSTALLMENT CONTRACT SECURITY AGREEMENT
No. Dale	04/66/02

1470 EAST 50TH STREET
INVER GROVE HEIGHTS, MN 55077

HELDE BUYER NICHOLAS R MARRISON
LINDA D MORRISON
LINDA D MORRISON
LINDA D MORRISON
2401 ERENNER CT
SAINT PAUL, MN 55113

"We" and "up" mean the Seller above, its successory and easigns.

You and your mean each Buyer above, and guarantor, jointly and individually.

SALE: You agree to purphase from us, over time, the Motor Vehicle (Vehicle) and services described below. Your purchase is subject to the accessories and conditions of this contract and security agreement (Contract). The Vehicle is sold in its present condition, together with the usual

Description of	
Motor Vehicle	
Dumbased	

Year Maka Model 2002 KIA SPORTAGE N KNDJA723225115996

Lig No./Year

Description of 1998 CHEVROLET 1500 PICKUP VIN# 2GCEK19R2W1161910

Sellar

SECURITY: To secure your payment and performance under the terms of this Contract, you give us a security interest in the Vehicle, all excessions, attachments, accessories, and equipment placed in or on the Vehicle, together called Property, and proceeds of the Property you also essign to us and give us a security interest in proceeds and premium refunds of any insurance and service contracts purchased with

DOWN PAYMENT; You also agree to pay, or apply to the Cash Price, on or before today's date, any cash, rebals and net trade-in value described in the ITEMIZATION OF AMOUNT FINANCED. 

On the Cash Price, on or before today's date, any cash, rebals and net trade-in value described in your Payment Schedula.

TRUTH IN LENDING DISCLOSURES

PERCENTAGE RA The cost of your credi a yearly rate 6.99	the dollar amount of the dollar will cost y	ou. your behalf. 672.45 25564.32 \$ 26236.77
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Number of Payments	Amount of Payments	When Payments Are Due
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Amount ellowed by law in Prapayment: if you pay in this Contract Provisions	payment is more than  ander Minn. Stat. § 47.59.  ander Minn. Stat. § 47.59.  contract early, you will not let.  If You can one the learn	the Motor Vehicle purchased.  5% OF THE PAYMENT  days late, you will be charged  5% OF THE PAYMENT  This amount may increase so as to always be the highest you will not have to pay's penalty.  be entitled to a refund of part of the loan administration fee.  a of this Contract for any additional information about hoopsyment, default, any required syment returds and penaltics.
CREDIT INCLIDANCE	Sa O-de Her and had	No. of the second secon

CREDIT INSURANCE: Credit life, credit disability (accident and health), and any other insurance coverage quoted below, are not required to obtain credit and war wat not provide them unless you sign and agree to pay the additional premium. If you want such insurance, we will obtain it for you (if you qualify for coverage). We are quoting below ONLY the coverages you have chosen to purchase.

	• •		·	<b>~</b> .
Credit Life: insured		N/A		
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Credit Disability: in		MAM		
Strick   Joint	Pmm £	N/A	Telm	N/A

Your signature quoted above, offered.	below means you want (only) the none are quoted, you have de	ne insumanca coverege(e) clined any covereges we
стапесь	N/A	N/A

insurance from or through us you will pay \$	N/A
N/A	of coverage,
This premium is calculated as follows:  N/A  Deductible, Collision Coverage \$	N/A
S N/A Deductible, Comprehensive Cov. \$	N/A N/A
Fire-Therr and Combined Additional Coverage \$	N/A

Liability insurance coverage for bodily injury and motor validle damage caused to others is not included in this Contract unless checked and indicated.

MOTOR VEHICLE SERVICE CONTRACT: With your purchase of the Vehicle, you agree to purchase a Motor Vehicle Service Contract to pover

This Casins	Company will be to allow to	N/A
LITTLE COLLAIN	Contract will be in affect for	

ASSIGNMENT: This Contract and Security Agreem	and is assigned
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With recourse.	• • • • • • • • • • • • • • • • • • • •
	04/06/DZ
Seller: By Date	04/00/02

MINNESOTA RETAIL INSTALLMENT CONTRACT AND BECURITY AGREEMENT EXCENSIVE FOR RESILANDAM 100-2001

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ADMINISTRAÇÃO (INC.) BURINE DEX CA 2	5
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Cash Price	21131.31
Manufacturer's Rebata 5N/A	_
Cash Down Payment \$ 2000.00	
Deferred Down Payment 5 N/A	****
n. Total CashVRebate Draws	2000.00
c. Lines Amount puring \$	
Paid to:	
d. Net Trade-In (b. minus c.) \$	1327.55
e. Net Caah/Trade-In (e. plus d.) \$	672.45
Down Payment (e.: disclose as \$0 if negative)	5 672.45
Unpaid Selence of Castr Pring	\$ 20479.06
Paid to Public Officials - Filing Fees	\$ 267.50
Insurance Premiuma*	N/A
Amount to Finance line s. (if a la negative)	S N/A
10.	25.00
To: N/A	s N/A
Te: N/A	\$ N/A
10:	5 N/A
Take Other Charges/Amounts Pd. to Others	\$ 292.50
Less: Prepaid Finance Charges	s N/A
Amount Financed	20771.56

"We may retain or receive a portion of this amount."

NOTICE TO BUYER

NOTICE TO BUYER

(1) Do not sign this egreement before you read it or if it contains any blank spaces. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) IMPORTANT. THIS MAY BE A BINDING CONTRACT AND YOU MAY LOSE ANY DEPOSITS IF YOU DO NOT PERFORM ACCORDING TO ITS TERMS.

BY SIGNING BELOW BUYER AGREES TO THE TERMS ON PAGES 1 AND 2 OF THIS CONTRACT AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS CONTRACT

Buyer.	road I.
factoral	04/06/0
Signature	Data
Sold Marrian	04/06/03
Signature	Date
Seller: By	

MOTOR VEHICLE - NOT FOR MANUFACTURED HOMES

Ex A P.1

#### ADDITIONAL TERMS OF THIS CONTRACT AND SECURITY AGREEMENT

GENERAL TERMS: You have been given the opportunity to purchase the Vehicle and described services for the Cash Price or the Total Sale Price. The Yotal Sale Price is the total price of the Vehicle

Total Sale Price. The Yolal Sale Price is the total price of the Vehicle and any services if you buy them over time. You agreed to purchase the items over time. The Total Sale Price shown in the TRUTH IN LENDING DISCLOSURES assumes that all payments will be made as scheduled. The actual amount you will pay may be more or less depending on your payment record.

We do not intend to charge or collect, and you do not agree to pay, any tinance charge or fee, that is more than the maximum amount permitted for this sale by state or federal law. If you pay a finance charge or fee that is contrary to this provision, you have a right to a returned of the excess charge. If you agree, or if you do not make a timely request for a returne, we will apply the returned amount first to reduce the principal balance, and when the principal has been paid in full, returd if to you.

You understand and agree that some payments to third panies as a part of this Contract may involve money retained by us or paid back to us as commissions or other remineration.

If any section or provision of this Contract is not enforceable, the other jerms will remain part of this Contract.

This Contract is governed by the laws of Minnesota and the United States of America.

NAME AND LOCATION: Your name and address indicated on page 1 are your exact legal name and your principal residence. You will provide us with as least 30 days notice prior to changing your name or principal residence.

PREPAYMENT: You may prepay this Contract in full or in part at

any time. Any parial prepayment will not excuse any later schaduled payments until you pay in full.

A refund of any prepaid, uncarned insurance premiums may be obtained from us or from the insurance company named in your policy or certificate of insurance, but no refund will be paid if the amount of the refund would be loss than \$5.00

OWNERSHIP AND DUTIES TOWARD PROPERTY; By giving us a security interest in the Property, you represent and agree in the following A Our security interest will not extend to consumer goods unloss

our security interest will not extend to consumer gonds unloss you acquire rights to them within 10 days after we enter into this Contract, or they are installed in or althad to the Vehicle You will defend our interests in the Property against claims made by anyone else. You will do whatever is necessary to keep our claim to the Property ahead of the claim of anyone else. The security interest you are giving us in the Property comes ahead of the claim of any other of your general or securid creditors. You agree to sign any additional documents or provide us with any additional information we may require to keep our claim to the Property ahead of the claim of anyone else. You will not obtain the Property in your possession in good condition and repeir. You will use the Property for its intunded and lawful purposes. Unless otherwise agreed in writing, the Property will be located at your address listed on page 1 of this Contract. You will not altempt to sell the Property (unless in its property identified inventory) or otherwise agreed in writing, the Property in the Property to anyone else, without our prior writing consent. You will be all takes and assessments on the Property of the Property as they become due.

You will pay all takes and semination of the Property. You will provide us reasonable access to the Property for the purpose of inspection. Our entry and inspection must be accomplished. lawfully, and without breaching the peace

DEFAULT: You will be in default on this Contract it any one of the following occurs (except as prohibited by law)

A. You fail to perform any obligation that you have undertaken in

Inis Contract

this Contract.

B. We, in good faith, believe that you cannot, or will not, pay or perform the obligations you have agreed to in this Contract.

If you default, you agree to pay our costs for collecting amounts owing, including court costs, attorneys' fees, and fees for repossession, repair, storage and sale of the Property securing this Contract. If this Contract is subject to Minn. Stat. § 168.71, the amount of our attorneys' lees you must pay will not exceed 15% of the amount due and payable under this Contract.

If an event of default occurs as to any one of you, we may exercise our remedies against any or all of you.

REMEDIES: If you are in default on this Contract, we have all of the remedies provided by law and this Contract.

thes provided by law and this Contract

We may require you to immediately pay us, less any relund required by law, the remaining unpaid balance of the amount linanced, linance charges and all other agreed charges. We may pay lakes, assessments, or other tiens or make repairs to the Property if you have not done so we are not required to do so. Any amount we pay will be added to the amount you owe us and will be due immediately. This amount will earn finance charges from the date paid at the interest rate described in the PROMISE TO PAY AND PAYMENT TERMS ection until paid in full.

C. We may require you to make the Property available to us at a

Diace we designate that is reasonably convenient to you and us.

D. We may immediately take possession of the Property by legal process or self-help, but in doing so we may not breach the peace or unlawfully enter onto your premises. We may then self the Property and apply what we receive as provided by law to our reasonable expenses and then toward what you ower us.

E. Except when prohibited by law, we may sue you for additional ampunis if the proceeds of a sale do not pay all of the ampunis YOU OWE US

By choosing any time or more of these remedies, we do not give up our right to taker use another remedy. By deciding not to use any remedy, we do not give up our right to consider the event a default if

Thappens again. You agree that if any notice is required to be given to you of an intended sale or fransfer of the Property, notice is reasonable if mailed to your last known address, as reflected in our records. Ieast 10 days before the date of the intended sale or fransfer to:

least 10 days before the date of the intended sale or transfer (or such other period of time as is required by law).

You agree that, subject to your right to recover such properly, we may take possession of personal property left in or on the Property securing this Contract and taken into possession as provided above RETURNED CHECK CHARGE; You agree to pay a service charge for each returned check or returned automatic payment request. The amount of the service charge will be \$30.00.

INSURANCE: You agree to buy properly insurance on the Property protecting against loss and physical damage and subject to a maximum deductible amount indicated in the PROPERTY INSURANCE section, or as we will otherwise require. You will name INSURANCE section, or as we will otherwise require. You will name us as loss payee on any such policy. (Generally, loss payee is the one to be paid the policy benefits in case of loss or damage to the property. We may require additional security or assurances of payment before we allow insurance proceeds to be used to repair or replace the Property. If the insurance proceeds do not cover the amounts you still own us, you will pay the difference. You may purchase or provide the insurance through any insurance company reasonably acceptable to us. You will keep the insurance in full force and effect until this Contract is paid in full. Contract is paid in full

Contract is paid in full.

If you fail to obtain or maintain this insurance, or name us as a loss payee, we may obtain insurance to protect our interest in the Property. We will notify you if we do so This insurance may include coverages not required of you. This insurance may be written by it company other than one you would choose. It may he written at a rate higher than a rate you dould obtain if you purchased the property insurance required by this Contract. We will add the premium for this insurance to the amount you owe us any amount we pay will be due immediately. This amount will earn linance charges from the date paid at the interest rate described in the PROMISE TO PAY AND PAYMENT TERMS action until paid in full however, if this Contract is assigned, and the Assignee is not a financial insulturion as delined by Minn, Stat. § 47.59, this amount will earn linance charges from the date paid at 8% per year.

OBLIGATIONS INDEPENDENT: Each person who signs this Contract agrees to pay this Contract according to its terms. This means the following:

A You must pay this Contract even it someone olse has also

A You must pay this Contract even it someone disc has assisting the may release any contract.

B. We may release any socurity and you will still be obligated to pay this Contract.

C. We may release any security and you will still be obligated to pay this Contract.

D. If we give up any of our rights, it will not affect your duty to pay this Contract.

E. If we extend new credit or renew this Contract, it will not affect your duty this Contract.

your duly lo pay this Contract. WAIVER: To the extent permitted by law, you agree to give up your rights to require us to do certain things. We are not required to: (1) demand payment of amounts due; (2) give notice that amounts due have not been paid, or have not been paid in the appropriate amount, time or manner; (3) give notice that we inlend to make, or are making, this Contract immediately due; or, (4) obtain official certification of nonpayments.

### THIRD PARTY AGREEMENT

By signing below you agree to give us a security interest in the Property described in the SALE section. You also agree to the terms of this Contract, including the WAIVER section above, except that you will not be liable for the payments it requires. Your interest in the Property may be used to satisfy the Buyer's obligation. You agree that we may renow, extend, change this Contract. We may take those steps without notice or demand upon you.

You acknowledge receipt of a completed copy of this Contract

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NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCECEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

IF YOU ARE BUYING A USED VEHICLE, THE INFORMATION YOU SEE ON THE WINDOW FORM FOR THIS VEHICLE IS PART OF THIS CONTRACT, INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACY OF SALE.

STK# 23840A

TC COOP CREDIT UNION

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Ex B p,1

#### ADDITIONAL TERMS OF THIS CONTRACT AND SECURITY AGREEMENT

ADDITIONAL TERMS OF THIS CON GENERAL TERMS: You have been given the opportunity of purchase the Vehicle and described services for the Cash Price or the Total Sale Price. The Total Sale Price is the total price of the Vehicle and any services if you buy them over time. You agreed to purchase the time times over time. The Total Sale Price shown in the TRUTH IN LENDING DISCLOSURES assumes that all payments will be made as scheduled. The actual amount you will pay may bit more or less

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scheduled. The actual amount you will pay may bit more or less bepending on your payment record.

We do not intend to charge or collect, and you do not agree to pay, any linence charge or lee, that is more than the maximum amount permitted for this sale by state or federal law. If you pay a linance charge or fee that is contrary to this provision, you have a right to a refund of the excess charge. If you agree, or if you do not make a timely request for a refund, we will apply the refund amount first to reduce the concepts before and when the occasional has been make a limely request for a refund, we will apply the refund amount livist to reduce the principal belance, and when the principal has been paid in full, refund it to you.

You understend and agree that some payments to third parties as a pain of this Contract may involve money retained by us or paid back to us as commissions or other remuneration.

If any section or provision of this Contract is not enforceable, the other terms will remain part of this Contract.

This Contract is governed by the laws of Minnesots and the United States of America.

NAME AND LOCATION: Your name and address indicated on page 1 are your exact legal name and your principal residence. You will provide us with as least 30 days notice prior to changing your or principal residence.

PREPAYMENT: You may prepay this Contract in full or in part at any time. Any partial prepayment will not excuse any later schoduled payments until you pay in full.

A refund of any prepald, unearned insurance premiums may be obtained from us or from the insurance company named in your policy or certilicate of insurance, but no refund will be paid if the amount of the refund would be less than \$5.00

OWNERSHIP AND DUTIES TOWARD PROPERTY: By giving us a

- OWNERSHIP AND DUTIES TOWARD PROPERTY: By giving us a security interest in the Property, you represent and agree in the following:

  A Our security interest will not extend to consumer goods unless you acquire rights to them within 10 days after we entire into this Contract, or they are installed in or alfixed to the Vehicle.

  B You will defend our interests in the Property against claims made by anyone else. You will do whatever is necessary to keep our claim to the Property ahead of the claim of anyone else. The security interest you are giving us in the Property comes ahead of the claim of any other of your general or socured creditors. You agree to sign any additional documents or provide us with any additional information we may require to keep our claim to the Property ahead of the claim of anyone else. You will not anyoning to change our interest in the Property.

  D You will keep the Property in your possession in good conditional and repair. You will use the Property to ris intended and lawful purposes. Unless otherwise agreed in writing, the Property will be located at your address listed on page 1 of this Contract.

  E You will not attempt to sell the Property (unless in is properly identified invigitory) or otherwise transfer any rights in the Property on anyone else, without our prior writing contract.

  F You will not attempt to sell the Property (unless in its property identified invigitory) or otherwise transfer any rights in the Property all taxes and assessments on the Property. You will not attempt and possion of the property of the Property. You will not affect used any loss or damage to the Property. You will

  - become due
  - You will notify us of any loss or damage to the Property. You will provide us reasonable access to the Property for the purpose of inspection. Our entry and inspection must be accomplished lawfully, and without breaching the peace.

DEFAULT: You will be in default on this Contract if any one of the following occurs (except as prohibited by few):

A You fail to perform any obligation that you have undertaken in

- this Contract
- this Contract.

  8. We, in good faith, believe that you cannot, or will not, pay or perform the obligations you have agreed to in this Contract. If you default, you agree to pay our costs for collecting amounts owing, including court costs, attorneys fees, and fees for repossession, repair, storage and sale of the Property securing this Contract. If this Contract is subject to Minn, Stat § 168.71, the amount of our attorneys fees you must pay will not exceed 15% of the amount due and payable under this Contract.

  If an event of default occurs as to any one of you, we may exercise our remedies against any or all of you.

- oxercise our remedies against any or all of you.

  REMEDIES: If you are in default on this Contract, we have all of the remedies provided by law and this Contract:

  A. We may require you to immediately pay us, less any refund required by law, the remaining unpaid balance of the amount Inanced, finance charges and all other agreed charges.

  B. We may pay taxes, assessments, or other liens or make repairs to the Property if you have not done so. We are not required to do so. Any amount we pay will be added to the amount you owe us and will be due immediately. This amount will earn linance charges from the date paid at the interest rate described in the PROMISE TO PAY AND PAYMENT TERMS section until pald in til.

  C. We may require you to make the Property available to us at a

  - section until paid in full.

    C. We may require you to make the Property available to us at a place we designate that is reasonably convenient to you and us.

    D. We may immediately take possession of the Property by legal process or sail-help, but in doing so we may not breach the peace or unlawfully enter onto your premises. We may then sell the Property and apply what we receive as provided by law to our reasonable expenses and then toward what you dwe us.

E. Except when prohibited by law, we may sue you for additional amounts if the proceeds of a sale do not pay all of the amounts vau owe us

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you owe usy one or more of these remedies, we do not give up our right to later use another remedy. By deciding not to use any remedy, we do not give up our right to consider the event a default if happens again.

You agree that if any notice is required to be given to you of an intended sale of transfer of the Property, notice is reasonable if mailed to your last known address, as reflected in our records. At least 10 days before the date of the intended sale or transfer (or such other period of time as is required by law).

You agree that, subject to your right to recover such properly, we may take possession of porsonal properly laft in or on the Properly securing this Contract and taken into possession as provided above. RETURNED CHECK CHARGE: You agree to pay a service charge for each returned chack or roturned automatic payment request. The amount of the service charge will be \$30.00.

request. The amount of the service charge will be \$30.00. INSURANCE: You agree to buy properly insurance on the Property protecting against loss and physical damage and subject to a maximum deductible amount indicated in the PROPERTY INSURANCE section, or as we will otherwise require. You will name us as loss payee on any such policy. (Generally, loss payee is the one to be paid the policy benefits in case of loss or damage to the property.) In the event of loss or damage to the Property, we may require additional security or assurances of payment before we allow insurance proceeds to be used to repair or replace the Property. If the insurance proceeds do not cover the amounts you still owe us, you will pay the difference. You may purchase or provide the insurance through any insurance company reasonably acceptable to us. You will keep the insurance in full force and effect until this Contract is paid in full.

If you fail to obtain or maintain this insurance, or name us as a second of the property.

If you tail to obtain or maintain this insurance, or name us as in less payee, we may obtain insurance to protect our interest in the Property. We will notify you if we do so This insurance may be written by a company other than a rate you would choose it may be written by a company other than a rate you would choose it may be written at rate higher than a rate you could obtain if you purchased this respectly insurance required by this Contract. We will add the premium for this insurance to the amount you owe us. Any amount will be due immediately. This amount will earn finance charges from the date paid at the interest rate described in the PROMISE TO PAY AND PAYMENT TERMS section until paid in full. However, if this Contract is assigned, and the Assignee is not a financial institution as defined by Minn, Stat. § 47.59, this amount will earn finance charges from the date paid at 8% per year.

OBLIGATIONS INDEPENDENT: Each person who signs this Contract agrees to pay this Contract according to its terms. This means the following.

A. You must pay this Contract even if someone else has also signed it. If you fail to obtain or maintain this insurance, or name us as a

- signed it.
  We may release any co-buyer or guarantor and you will still be obligated to pay this Contract.
- obligated to pay this Contract

  C. We may release any security and you will still be obligated to pay this Contract.

  D. If we give up any of our rights, it will not affect your duty to pay this Contract.

  E. II we extend new credit or renew this Contract, it will not affect the payon the contract.
- your duly to pay this Contract.

WAIVER: To the extent permitted by law, you agree to give up your rights to require us to do certain things. We are not required to: (1) demand payment of amounts due; (2) give notice that amounts due have not been paid, or have not been paid in the appropriate amount, time or manner: (3) give notice that we intend to make, or are making, this Contract immediately due: or, (4) obtain official certification of nonpayments.

### THIRD PARTY AGREEMENT

By signing below you agree to give us a security interest in the Proparty described in the SALE section. You also agree to the terms of this Contract, including the WAIVER section above, except that you will not be liable for the payments it requires. Your inderest in the Property may be used to satisfy the Buyer's obligation. You agree that we may renow, extend, change this Contract, or release any party or property without releasing you from this Contract. We may take these steps without notice or demand upon you.

You acknowledge receipt of a completed copy of this Contract.

Signature

Date

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

IF YOU ARE BUYING A USED VEHICLE, THE INFORMATION YOU SEE ON THE WINDOW FORM FOR THIS VEHICLE IS PART OF THIS CONTRACT, INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
DRIVER & VEHICLE SERVICES DIVISION
445 MINNESOTA ST., ST. PAUL, MN 55101
CONFIRMATION OF LIEN PERFECTION - DEBTOR NAME AND ADDRESS

206985 20

First Class U.S. Postage PAID Permit No. 171 St. Paul, MN

MORRISON NICHOLAS ROSS MORRISON LINDA DIANE 2401 BRENNER CT ROSEVILLE MN 55113

**JDP945** 

Year 02	K I A Make	4W:	SPO	D136	0P199
KNDJA7	2322511	5996	04/ Security	06/02 Date	NO Rebuilt

1ST SECURED PARTY

**LIEN HOLDER** 

RETAIN THIS DOCUMENT - See reverse side of this form for removing this lien.

TWIN CITY COOPS FED CR UN 2025 LARPENTEUR AVE W FALCON HEIGHTS MN 55113-5512

651 464 7170

P.07/11

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MINNESOTA DEPARTMENT OF PUBLIC SAFETY DRIVER & VEHICLE SERVICES DIVISION
445 MINNESOTA ST., ST. PAUL, MN 55101
CONFIRMATION OF LIEN PERFECTION - DEBTOR NAME AND ADDRESS

First Class U.S. Postage Permit No. 171 St. Paul, MN

MORRISON NICHOLAS ROSS MORRISON LINDA DIANE 2401 BRENNER CT ROSEVILLE MN 55113

**EJA863** 

Year 0 0 JEEP Make 4WCHK D1360P301 1,J4FF48S5YL154701 04/06/02 Security Date

1ST SECURED PARTY

**LIEN HOLDER** 

RETAIN THIS DOCUMENT - See reverse side of this form for removing this lien.

> TWIN CITY COOPS FED CR UN 2025 LARPENTEUR AVE W FALCON HEIGHTS MN 55113-5512

In re:

Case No. 04-34128-GFK

Nicholas Morrison and Linda Morrison

MEMORANDUM IN SUPPORT OF MOTION FOR RELIEF FROM AUTOMATIC STAY

Debtor(s).

Chapter 7 Case

Twin City Co-ops Federal Credit Union, hereafter Movant, advanced funds to Nicholas Morrison and Linda Morrison, hereafter Debtors. As security for payment, Debtors conveyed a security interest to Movant in two automobiles, a 2002 Kia Sportage and 2000 Jeep Cherokee. Debtors subsequently filed a chapter 7 bankruptcy petition.

At the commencement of the case, the Debtors owed Movant the sum of \$13,920.93 on the retail installment contract secured by the Kia Sportage which the Debtors value at \$12,000.00. At the commencement of the case, the Debtors owed Movant the sum of \$12,272.89 on the retail installment contract secured by the Jeep Cherokee which the Debtors value at \$10,605.00.

Debtors were in default on payments due to Movant at the time of filing the bankruptcy petition herein. Since filing the petition, Debtors have made no payment to Movant and Debtors have not reaffirmed the indebtedness. Debtors have surrendered the 2002 Kia Sportage to Movant, but continue to possess and use the 2000 Jeep Cherokee, subjecting the same to wear and tear and risk of loss. The collateral is depreciating and at risk and Movant has not been offered adequate protection in the collateral.

Section 362 of the Bankruptcy Code provides that the court shall grant relief from the automatic stay for cause, including lack of adequate protection of an interest in property of a party in interest. 11 U. S. C. § 362 (d)(1). That section also provides that such relief shall be

granted with respect to a stay of an act against property if the debtor has no equity in the

property and the property is not necessary to an effective reorganization. See 11 U. S. C. §

362 (d)(2).

Debtors' failure to challenge Movant's lien in the collateral coupled with past defaults

in payment, failure to make arrangement for future payment on the indebtedness as it matures

and failure to propose other payment arrangements to compensate Movant for the

depreciation of the collateral while being used by debtor constitutes "cause" for stay relief.

See *In re Elicker*, 100 B. R. 180 (Bkrtcy.M.D.Pa. 1989).

Debtors have no equity in the collateral. The collateral is not necessary for a

reorganization since this is a liquidation case.

Therefore, Movant is entitled to immediate relief from the automatic stay pursuant to

§362 (d)(1), for cause based on lack of adequate protection, or pursuant to §362 (d)(2) based

on the fact that there is no equity in the vehicle and it is not necessary to an effective

reorganization.

Dated: October 4, 2004

Gene T. Kelly, ID# 54690 Attorney for Movant

1515 One Financial Plaza

120 South 6th Street Minneapolis, MN 55402

(612) 332-5890

In re:	Case No. 04-34128-GFK

Nicholas Morrison and Linda Morrison

UNSWORN DECLARATION FOR PROOF OF SERVICE

Debtors.

Chapter 7 Case

I, Gene T. Kelly, declare under penalty of perjury that on October 4, 2004, I mailed copies of the foregoing Notice of Hearing and Motion for Relief from Stay, Affidavit, Memorandum, proposed Order and this proof of service by first class mail, postage prepaid, to each entity named below at the address stated below for each entity:

Nicholas Morrison Linda Morrison 2401 Brenner Court Roseville, MN 55113 Nicholas Morrison Attorney for Debtors 2401 Brenner Court Roseville, MN 55113

Nauni Jo Manti, Trustee 333 S. 7<sup>th</sup> Street, Suite 2000 Minneapolis, MN 55402 United States Trustee 1015 U. S. Courthouse 300 South 4th Street Minneapolis, MN 55415

Gene T. Kelly, ID# 54690

Attorney for Movant 1515 One Financial Plaza 120 South 6th Street

Minneapolis, MN 55402 Telephone: (612) 332-5890

In re:	Case No. 04-34128-GFK
Nicholas Morrison and Linda Morrison	ORDER
Debtor(s).	Chapter 7 Case
A hearing on the motion of Twin City Co-ops Fe	deral Credit Union for relief from the
automatic stay was held before the above Court of	on the 25 <sup>th</sup> day of October, 2004.
Appearances were noted in the Court's records.	
Upon all the proceedings, file, affidavits, exhibits	s and argument of counsel,
IT IS HEREBY ORDERED, that the automatic s	stay is terminated with respect to the
following property (the collateral):	
2000 Jeep Cherokee, VIN 1J4F	F48S5YL154701;
2002 Kia Sportage, VIN KNDJA	A723225115996.
Notwithstanding Fed. R. Bankr. P. 4001(a)(3), the	his Order is effective immediately.
Dated:	
	uited States Bankruntcy Judge